

may be required to pay such incidental charges as may be commensurate with the cost of a proper establishment and maintenance of the playgrounds. The fact must not be lost sight of, however, that boards of education as other administrative boards, have such powers only as are expressly granted to them by statute, together with such so-called implied powers as may be necessary and proper to effectually carry out the express powers so granted. There is no authority extended to boards of education, either expressly, or by necessary implication, which would authorize those boards to engage in any business enterprises or any enterprises for profit. While a board of education may lawfully extend to some other school district or some athletic association the privilege of the use of the playgrounds for the staging of games or athletic contests and may lawfully exact for the privilege a reasonable incidental charge therefor, it is not authorized to lease the premises in such a way as to create between themselves and the person or persons to whom the privilege is extended the relation of landlord and tenant with the incidental rights and liabilities which exist between a landlord and tenant, as the terms are used in legal phraseology.

The fact that a paper may be drawn up which is styled a lease, and that the parties themselves refer to it as a lease, when a board of education extends the use of playgrounds under its jurisdiction to some outside person or persons for the playing of games, and the fact that the incidental charge which is exacted for the use of the grounds is spoken of as a rental charge, does not, in my opinion, create the relationship of landlord and tenant between the parties and does not serve to change the rule of liability of the board of education, or the school district, for tort.

I am therefore of the opinion, in specific answer to your question, that a board of education which permits the use of playgrounds, under its jurisdiction, by others, for the playing of baseball, football or other games, and exacts a reasonable and proper charge for the use of said grounds is not liable in tort for any damages accruing to patrons of the game, or anyone else, by reason of negligence in the construction or maintenance of the said playgrounds or grand stands or bleachers thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2827.

APPROVAL, LEASE FOR RIGHT TO LAY GAS MAIN ACROSS AND UNDER
BED OF TUSCARAWAS FEEDER TO OHIO CANAL IN COVENTRY TOWN-
SHIP, SUMMIT COUNTY, OHIO—THE EAST OHIO GAS COMPANY.

COLUMBUS, OHIO, January 15, 1931.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You lately submitted to me for my examination and approval a certain canal land lease in triplicate executed by the state of Ohio through you as superintendent of public works, by which, in consideration of the payment to the state of an annual rental of twelve dollars, there is granted to The East Ohio Gas Company of Cleveland, Ohio, for a term of fifteen years, the right to lay and maintain a ten inch gas main across and under the bed of the Tuscarawas Feeder to the Ohio Canal at a point 3503 feet east of the center line of South Main Street in Coventry Township, Summit County, Ohio, subject to the conditions and restrictions provided for in said lease.

Upon examination of said lease, I find that the same has been properly executed and that the provisions of said lease are in substantial conformity with sections 13965, et seq., of the General Code and with other statutory provisions relating to leases of this kind.

Said lease is accordingly approved by me, as to legality and form, as is evidenced by my approval endorsed upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2828.

APPROVAL, LEASE TO OHIO CANAL LAND IN OXFORD TOWNSHIP, COSHOCTON COUNTY, OHIO FOR COTTAGE SITE AND AGRICULTURAL PURPOSES—MARGARET SHERMAN.

COLUMBUS, OHIO, January 15, 1931.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval a certain canal land lease in triplicate, executed by the state of Ohio, through you as superintendent of public works, by which, in consideration of an annual rental of six dollars to be paid to the state of Ohio, there is leased and demised to one Margaret Sherman of New Philadelphia, Ohio, for a term of fifteen years, the right and permission to occupy and use for cottage site and agricultural purposes that portion of the Ohio Canal, including the full width of the bed and embankments thereof, located in Oxford Township, Coshocton County, Ohio, and described as follows:

“Beginning at a line drawn at right angles to the transit line of the G. F. Silliman survey through Station 3170, and running thence southwesterly with the lines of said canal property, one hundred (100) feet, to a line drawn at right angles through Station 3171; reserving therefrom any portion of the above described property that may be occupied by the Public Highway.”

An examination of said lease discloses that the same has been properly executed, and that the provisions thereof are in conformity with Sections 13965, et seq., of the General Code and with other statutory provisions relating to canal land leases.

Said lease is accordingly approved by me as to legality and form, and I have endorsed my approval upon said lease and upon the duplicate and triplicate copies thereof, all of which I herewith return.

Respectfully,
GILBERT BETTMAN,
Attorney General.